

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

Christina Smith

(b) County of Residence of First Listed Plaintiff Peach County, Georgia
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)

David Dozier; Dozier Law Firm; 327 Third Street, Macon,
Georgia 31201; 478-742-8441

DEFENDANTS

United States of America and Calvin Gordon

County of Residence of First Listed Defendant
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF
THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
- ☐ 3 Federal Question
(U.S. Government Not a Party)
- ☒ 2 U.S. Government Defendant
- ☐ 4 Diversity
(Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | PTF | DEF | | PTF | DEF |
|-----------------------------------------|----------------------------|----------------------------|---------------------------------------------------------------|----------------------------|----------------------------|
| Citizen of This State | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)Click here for: [Nature of Suit Code Descriptions.](#)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES	
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input checked="" type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice	PERSONAL INJURY <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 INTELLECTUAL PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 835 Patent - Abbreviated New Drug Application <input type="checkbox"/> 840 Trademark <input type="checkbox"/> 880 Defend Trade Secrets Act of 2016 SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395f) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 376 Qui Tam (31 USC 3729(a)) <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit (15 USC 1681 or 1692) <input type="checkbox"/> 485 Telephone Consumer Protection Act <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education	PRISONER PETITIONS Habeas Corpus: <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty Other: <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement			

V. ORIGIN (Place an "X" in One Box Only)

- ☒ 1 Original Proceeding
- ☐ 2 Removed from State Court
- ☐ 3 Remanded from Appellate Court
- ☐ 4 Reinstated or Reopened
- ☐ 5 Transferred from Another District (specify)
- ☐ 6 Multidistrict Litigation - Transfer
- ☐ 8 Multidistrict Litigation - Direct File

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
28 U.S.C. § 2671

Brief description of cause:

Motor vehicle accident where Defendant was operating a motor vehicle during course and scope of employment with United States Postal Service.

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.

DEMAND \$

CHECK YES only if demanded in complaint:

JURY DEMAND: ☒ Yes ☐ No

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE

DOCKET NUMBER

DATE 7/14/2021 SIGNATURE OF ATTORNEY OF RECORD

FOR OFFICE USE ONLY

RECEIPT # AMOUNT APPLYING IFP JUDGE MAG. JUDGE

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF GEORGIA
MACON DIVISION**

CHRISTINA SMITH,	:	
	:	
Plaintiff,	:	
	:	Civil Action File
vs.	:	
	:	No. <u>5:21-CV-00237</u>
UNITED STATES OF AMERICA	:	
and CALVIN GORDON,	:	
	:	
Defendants.	:	
<hr style="width: 45%; margin-left: 0;"/>	:	

COMPLAINT FOR DAMAGES

COMES NOW, the Plaintiff, and hereby files this, her Complaint for Damages, under the Federal Tort Claims Act, for personal injuries, by showing this Honorable Court as follows:

Jurisdiction and Venue

1.

This is an action for personal injuries, against the United States of America under the Federal Tort Claims Act, 28 U.S.C. § 2671, *et seq.* Jurisdiction is appropriate in this Court pursuant to 28 U.S.C. § 1346(b)(1). Venue is appropriate in this Court pursuant to 28 U.S.C. § 1402(b).

2.

A claim was presented on behalf of the Plaintiff to the United States Postal Service, via Standard Form 95, within two (2) years of the date of the occurrence of the subject matter of this action. A final disposition of said claim was made on July 7, 2021, and Plaintiff now hereby files this lawsuit within six (6) months of the claim denial letter issued by the the United States Postal Service.

3.

Pursuant to Federal Rule of Civil Procedure 4(i), service of this lawsuit shall be effectuated by sending a copy of the summons and complaint, by certified mail, addressed to the Civil Process Clerk, at the office of the United States Attorney's Office, Richard B. Russell Federal Building, 75 Spring Street, S.W., Suite 600, Atlanta, GA 30303-3309 and by sending a copy of the summons and complaint by certified mail, return receipt requested, to the Attorney General of the United States, John Ashcroft at the U.S. Department of Justice, 950 Pennsylvania Avenue, NW, Washington, DC 20530-0001.

4.

Defendant, Calvin Gordon, is a resident of Georgia and is therefore subject to the jurisdiction and venue of this Court. Defendant Gordon may be served with

process at his current residential address, to wit: 110 Oak Meadow Trail, Warner Robins, GA 31088.

Facts

5.

On or about July 14, 2019, at approximately 9:58 a.m., Plaintiff, Christina Smith, was operating a motor vehicle traveling in the northbound direction on GA Highway 49 when Calvin Gordon, an employee of the United States Postal Service, acting within the course and scope of his employment, was attempting to enter GA Highway 49 from Deneen Drive.

6.

On or about July 14, 2019, at approximately 3:15 p.m., as Calvin Gordon was attempting to enter GA Highway 49 from Deneen Drive, he negligently entered into the path of travel of the vehicle driven by the Plaintiff Christina Smith.

Negligence

7.

On said date, Christina Smith was operating her motor vehicle in a lawful and safe manner.

8.

On said date, Calvin Gordon operated his mail truck in such a manner as to

cause it to collide with the motor vehicle being operated by Christina Smith.

9.

The collision was caused by the negligence of Calvin Gordon, particularly in that he:

1. Failed to keep a proper lookout;
2. Failed to keep his automobile under proper control;
3. Failed to yield to the Plaintiff's right of way;
4. Failed to perform a proper and timely application of the brakes;
5. Failed to steer his automobile so as to avoid colliding with Christina Smith's motor vehicle.

Damages

10.

As a direct result of the collision, proximately caused by the negligence of Calvin Gordon, while acting within the course and scope of his employment with the United States Postal Service, Christina Smith has sustained serious injuries.

11.

As a direct result of the collision, proximately caused by the negligence of Calvin Gordon, while acting within the course and scope of his employment, and as

a direct result of the injuries suffered in said collision, Christina Smith, has incurred extensive medical expenses in excess of \$72,020.40.

12.

As a direct result of the collision, proximately caused by the negligence of Calvin Gordon, while acting within the course and scope of his employment, Christina Smith has experienced physical pain and suffering.

13.

Each negligent act of Calvin Gordon, while acting within the course and scope of his employment,, or a combination thereof, was the direct and proximate cause of the collision and the physical injuries and damages suffered by Christina Smith.

Prayer

WHEREFORE, Plaintiff prays:

- (a) That summons issue as required by law;
- (b) That Plaintiff have a judgment against Defendants for all of Plaintiff's special damages incurred as a result of this accident;
- (c) That Plaintiff have a judgment against Defendants for Plaintiff's general damages, including her bodily injury, pain, suffering, harms, and losses, in an amount to be determined by a fair and impartial jury;

- (d) That all costs in this action be borne by Defendants; and
- (e) That this Honorable Court provide any and all other and further relief it deems necessary for the full administration of justice.

This 14th day of July, 2021.

/s/ David Dozier
David Dozier
Georgia Bar No. 228898
Attorney for Plaintiff

DOZIER LAW FIRM, LLC
327 Third Street
P.O. Box 13
Macon, Georgia 31202-0013
(478) 742-8441
david@dozierlaw.com

AO 440 (Rev. 06/12) Summons in a Civil Action

UNITED STATES DISTRICT COURT

for the

Middle District of Georgia



CHRISTINA SMITH

Plaintiff(s)

v.

UNITED STATES OF AMERICA and CALVIN
GORDON

Defendant(s)

Civil Action No.

SUMMONS IN A CIVIL ACTION

To: *(Defendant's name and address)* UNITED STATES OF AMERICA

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are: David Dozier
327 Third Street
Macon, GA 31201

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

CLERK OF COURT

Date: _____

Signature of Clerk or Deputy Clerk

AO 440 (Rev. 06/12) Summons in a Civil Action